



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------|-------------|----------------------|---------------------|------------------|
| 10/088,269 | 09/16/2002 | Olli P. Kallioniemi | 4239-62295 | 8794 |
| 36218 | 7590 | 08/05/2008 | | |
| KLARQUIST SPARKMAN, LLP | | | | EXAMINER |
| 121 S.W. SALMON STREET | | | | DEJONG, ERIC S |
| SUITE #1600 | | | ART UNIT | PAPER NUMBER |
| PORLAND, OR 97204-2988 | | | 1631 | |
| | | | | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 08/05/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 10088269 | 9/16/2002 | KALLIONIEMI ET AL. | 4239-62295 |
| EXAMINER | | | |
| ERIC S. DEJONG | | | |
| ART UNIT | | | PAPER |
| 1631 | | | 20080801 |

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The amendment filed on 04/03/2008 presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because independent claims 1, 64, and 68 (see lines 7-11 of claim 1; lines 10-13 of claim 64; and lines 8-12 of claim 68) have been amended to recite the limitation "combining, for the successive two-dimensional image slices, contiguous signal segments in successive optical sections into a single spot representing a single probe". The recited limitation "successive compilation of two-dimensional image slices" causes the instant claims to read on the non-elected invention of Group II, drawn to projecting possible fluorescent image slices generated from a plurality of confocal microscopic observations (see especially the Restriction requirement mailed 01/04/2005 and applicants response filed 03/04/2006). As such, the instant claims now read on the non-elected invention of Group II.

Applicants argument, filed 04/03/2008, has been fully considered but is not persuasive. Applicants argue that the projection technology, as set forth in the instant specification on page 25, line 3 et seq., is different from that recited in claim 1. In response, it is noted that the cited portion of the instant specification provides only a description of a preferred embodiment and is not a limiting definition that would limit the scope and/or interpretation of terminology in the instant claims. Further, "projecting" and "combining" are not distinct, each from the other, because the instant claims still recites the active steps wherein contiguous signal segments in successive optical sections are combined into a single spot representing a single probe. Therefore, the recited "combination" as instantly claimed still encompasses the distinct feature of non-elected Group II, drawn to projecting fluorescent image slices generated from a plurality of confocal microscopic observations (see especially pages 2-4 of the Restriction requirement mailed 01/04/2005). Therefore applicants argument is not persuasive.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD OF ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

/Eric S DeJong/
Primary Examiner, Art Unit 1631